

## REMARKS

The courtesy of Examiners Dass and Ali in granting a telephone interview with Attorney Edward W. Callan on 11 December 2008 is sincerely appreciated. During the interview the arguments presented herein were discussed. No agreement was reached as to the allowability of the claims. However, Examiner Dass did request the filing of a paper containing the same arguments as were presented on behalf of applicants during the interview.

### ***Rejection of Claims 26-27 under 35 U.S.C. 112, first paragraph.***

In claim 26, the recitation “said transaction data received by the customer from the provider” is supported by paragraphs 11 and 12 on page 4 of the present application.

### ***Rejection of Claims 10-23 and 25-27 under 35 U.S.C. 103(a).***

The rejection of independent claim 10 as being unpatentable over Stadelmann in view of Hunt is respectively traversed for at least the following reasons.

1. In Stadelmann’s system, only one message including transaction data (the confirmation message F) is sent to the validation platform (see column 3, lines 29-32); whereas claim 10 requires that both a customer message including transaction data and a provider message including transaction data be sent to a payment gateway. The recitation in line 15 of claim 10 requires that a customer message including transaction data be sent to the payment gateway and the recitation in line 12 of claim 10 requires that a provider message including transaction data be sent to the payment gateway.

2. In Stadelmann’s system, the transaction data included in the confirmation message F does not include “payment options,” whereas claim 10, in line 10, requires that the transaction data in the provider message include “payment options.” During the interview the Examiners agreed that Stadelmann’s message F does not include payment options.

3. In Stadelmann's system, the validation platform does not synchronize the confirmation message F with any other received message that includes transaction data, whereas claim 10 requires that a customer message including transaction data be synchronized with a provider message including transaction data.

4. In Stadelmann's system, the validation platform does not *compare* the confirmation message F with any other received message that includes transaction data "to determine whether they match"; whereas claim 10 requires that a customer message including transaction data be compared with a provider message including transaction data to determine whether they match.

5. In Stadelmann's system, the validation platform processes the confirmation message F with data pertaining to the customer and the provider, as described at column 3, line 47, to column 4, line 5, as a prerequisite to performing a deduction from a customer's account. By way of distinction, claim 10 requires that a deduction from the customer's account be performed if the compared provider and customer messages including transaction data match. As noted above, in Stadelmann's system there is no comparison of provider and customer messages that include transaction data.

In the Office Action of March 6, 2008 the Examiner conceded that "Stadelmann fails explicitly to disclose the steps of synchronizing said provider and customer messages in the payment gateway, comparing said provider and customer messages to determine whether they match." Such concession appears to concede points of argument 3 and 4. Following such concession, the Examiner asserted (i) that Hunt was in the same field of invention, (ii) that Hunt "discloses the steps of synchronizing said provider messages in the payment gateway, comparing said provider and customer messages," and (iii) that it would have been obvious to modify the system disclosed by Stadelmann to include the features mentioned and taught by Hunt in order to facilitate the tracking of shopping cart-related activity.

6. Such a modification would not have been obvious because Hunt is directed to a different field of invention and does not teach the step of comparing said provider and customer messages to determine whether they match. Whereas claim 10 requires that the comparison function be performed as part of a method of payment for goods or services, Hunt merely discloses a method of correlation and analysis of sales data subsequent to the sales for the purpose of analyzing purchase and traffic patterns. (Abstract and Summary of the Invention portions of Hunt.)

a. Hunt is not in the field of applicants' endeavor because the field of endeavor of applicants' claim 10 is a method of payment for goods or services, whereas Hunt's field of endeavor is a method of correlation and analysis of sales data subsequent to the sales for the purpose of analyzing purchase and traffic patterns.

b. The portion of Hunt cited by the Examiner is not reasonably pertinent to the particular problem with which Applicants are concerned because Applicants' claim 10 concerns the problem of providing a basis for performing a deduction from a customer's account, whereas the problem with which the portion of Hunt cited by the Examiner is concerned is the problem of analyzing purchase and traffic patterns.

c. Furthermore, modifying Stadelmann's system to include the features mentioned and taught by Hunt would not have resulted in the present invention because neither Stadelmann nor Hunt disclose or suggest performing a deduction from the customer's account if the provider and customer messages match, as required by claim 10, and as pointed out in Reason No. 5 above.

The rejection of dependent claims 11-23 as being unpatentable over Stadelmann in view of Hunt is respectively traversed for least the same reasons as presented above for the allowance of claim 10.

Regarding claim 11, the rejection thereof is not understood because Stadelmann does not disclose that “no electronic financial information and no customer information is stored in said terminal after the transaction,” as required by claim 11. Such a limitation is not disclosed at column 3, lines 40-45 (cited by the Examiner), which states:

“In a variant, in order to protect the private sphere of the customer, the copy of the confirmation message for the validation platform 42 contains only the data which are necessary for the monetary transaction (identification of the customer, of the services provider and amount), but no data concerning the purchased service, product or information.”

The “identification of the customer” contained in the confirmation message for the validation platform 42 is customer information.


The rejection of independent claims 25 and 26 as being unpatentable over Stadelmann in view of Hunt is respectively traversed for at least the same reasons as set forth above in support of the traversal of the rejection of claim 10

The rejection of independent claim 27 as being unpatentable over Stadelmann in view of Hunt is respectively traversed for at least the reasons as presented above for the allowance of claim 26, upon which claim 27 depends.

## CONCLUSION

Applicants do not necessarily agree with any of the Examiner's comments regarding the applicability of the cited references to any of the claims. However, in view of the reasons presented herein for the patentability of the subject matter of the currently pending claims, applicants are not presenting additional arguments for traversing the rejection of the claims at this time. Applicants reserve the right to present additional arguments for traversing the present and any future rejections of the claims. Should any issues remain unresolved, Examiner Ali is invited to telephone the undersigned attorney.

Respectfully submitted,  
Michael LANGER et al.

By:   
Lawrence A. Maxham  
Attorney for Applicant  
Registration No. 24,483

The Maxham Firm  
Attorneys At Law  
9330 Scranton Road, Suite 350  
San Diego, California 92121  
Telephone: (858) 587-7659  
Facsimile: (858) 587-7658